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STATE FOR ISN/CB, VCI/CCA, L/NPV, IO/MPR,
SECDEF FOR OSD/GSA/CN,CP>
JOINT STAFF FOR DD PMA-A FOR WTC
COMMERCE FOR BIS (ROBERTS AND DENYER)
NSC FOR FLY
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TAGS: [PARM](#) [PREL](#) [CWC](#)

SUBJECT: CWC: INDUSTRY SPECIFIC MEETINGS ON THE MARGINS OF
THE CONFERENCE OF STATES PARTIES

REF: A. THE HAGUE 1015

[B](#). THE HAGUE 1021

[C](#). THE HAGUE 977

This is CWC-62-08.

SUMMARY

[1](#). (SBU) Before and during the Conference of the States Parties (CSP 13), Doug Brown, visiting Director of the Treaty Compliance Division of the Bureau of Industry and Security, Department of Commerce, met with a number of officials on industry-specific issues. This cable follows the wrap up report for the Conference (ref A) and other sidebar meetings on a variety of topics (ref B).

Meeting with Bill Kane, Industry Verification

[2](#). (SBU) On November 27, Commerce Director Doug Brown and Delrep met with Bill Kane (Head, Industry Verification Branch of the Technical Secretariat) to discuss issues related to industry inspections in the U.S. Kane asked whether the U.S. might entertain the idea of sequential inspections to sites more than 150 miles apart; Brown said that this would be evaluated on a case by case basis and would be dependent on location, terrain, and other factors. Brown noted that the U.S. has received an unusually high number of Schedule 3 inspections this year. Kane explained that, given the overall number and location of Schedule 3 plant sites, soon only the U.S. and China will have Schedule 3 sites that have not yet been inspected. Brown noted that the number of Other Chemical Production Facility (OCPF) inspections in the U.S. has also risen this year; Kane pointed out that China, Japan, and others with sizeable chemical industries have also seen an increase. There was some discussion of the fact that the U.S. and others could reach their OCPF/Schedule 3 inspection cap in the coming years.

13. (SBU) On OCPF site selection, Kane pointed out that previous consultations had failed to reach agreement and that the Director-General (DG) -- partly at U.S. urging -- had then implemented a new methodology, based on factors that were within the Secretariat's purview to change. Kane and Brown discussed the possibility of member states revisiting the third selection factor (States Parties' proposals) after the Technical Secretariat (TS) has presented its analysis of the first year using the new methodology, and agreed that it is important that all States Parties with relevant chemical industries experience an increase.

14. (SBU) Brown raised the U.S. experience with sampling and analysis on Schedule 2 inspections, and recommended that the inspection teams move beyond simply citing the treaty as justification for sampling, and begin presenting a sound rationale for why/where they have decided to take a sample. He noted that industry representatives are far more receptive to OPCW inspections when they see thoughtful analysis and justification from the inspection teams. Brown also pointed to the benefit the Secretariat could experience in engaging in such a dialogue, as they would be pressed for such reasoning on Schedule 3 or challenge inspections.

15. (SBU) Kane replied that the purpose of the "start-up" phase of sampling and analysis was to give the Secretariat practical experience, and that a major TS

concern with discussing the rationale for sampling was that it would then be seen as negotiable, which contradicts the Secretariat's interpretation of the treaty. Brown suggested that it might be useful to consider an agreement between the TS and the U.S. National Authority that justification would be provided on U.S. inspections for the benefit of both parties.

16. (SBU) On the issue of "false positives" on sampling and analysis inspections, Kane noted that the Secretariat does its best to simulate possible chemistry at the site (through both a literature search and lab work) to prepare inspection teams for possible results. Brown said that, despite the U.S. site having been pressured into running the OPCW software in "open mode" on the last inspection, the Department of Commerce expects to insist upon "blinded mode" next time. He also shared the concerns Commerce has with the possibility that the OPCW will begin taking a "semi-quantitative" approach to sampling and analysis, a suggestion Kane said came from Germany in an attempt to address the issue of false positives. Kane suggested that perhaps someone from Commerce could explore this further with the TS before it is deployed.

17. (SBU) Brown also raised the U.S. proposal to use one "catch all" product group code for chemicals of lower relevance, as introduced during the November Industry Cluster consultations (ref C). Kane said that the TS concern was that this moves in the direction of providing less information on the sites, and that these chemicals are common enough that their identification is unlikely to reveal confidential business information. Finally, Brown noted that the Secretariat should, in general, be looking at and evaluating features of sites more carefully on industry inspections.

Meetings with Gary Mallard, Head of the OPCW
Laboratory

¶8. (U) On December 2, Brown and Delreps met with Gary Mallard (Head, OPCW Lab) to follow up on an earlier discussion of "false positives" in OPCW analysis of samples taken on Schedule 2 inspections. Mallard demonstrated the analytical software on a laptop, and said that the TS hopes to have new software by mid-January that will allow access to an extended spectral library from "blinded mode". He clarified that with the new software, the TS will conduct all sampling and analysis in "blinded mode" with recourse to the database. Mallard also explained that the point of a quantitative analysis of undeclared scheduled chemicals would be to confirm that these chemicals were only present in trace amounts as impurities and did not exceed the declaration threshold. He admitted that the uncertainty on concentration measurement would be quite high (plus or minus 10%), but thought that a valid distinction could still be made between impurities and chemicals that should have been declared.

¶9. (U) Mallard reiterated that most false positives are due to the presence of routine degradation products, and commented that the Policy-making Organs lacked the political will to include spectra for these chemicals. Delrep noted that the U.S. Del was only aware of one State Party (India) currently blocking these spectra from being added; Mallard replied that there was likely to be resistance even within the Western Group (WEOG).

Meeting with Giuseppe Cornacchia on Low Concentrations

¶10. (SBU) On December 4, Brown and Delrep were approached by Italian delegate Giuseppe Cornacchia, the new facilitator for Low Concentrations. Cornacchia implied that the U.S. was almost isolated on this issue, and noted that even Iran favors a lower concentration limit (1%), which seemed to him to belie Iran's non-proliferation stance at the OPCW. Cornacchia also indicated his exasperation with the Japanese position on the issue. Brown reiterated the rationale for the U.S. position and the difficulty the U.S. would have in implementing anything other than its proposed solution of 10%. In reply, Cornacchia questioned how U.S. regulations could be considered to be compliant with the Convention. He noted that the issue of low concentrations had implications for other issues, and pressed the U.S. to consider moving to a limit of 5%. In closing, he said that, following his first round of consultations, he sensed flexibility from a number of interested States Parties, but no commitment yet.

Bilateral Meeting with the Indian Delegation

¶11. (SBU) On December 5, Brown, ISN/CB Office Director Mikulak, and Delreps met with the Indian delegation to discuss industry-related issues. Indian participants were Mr. V.S. Sampath (Secretary, Department of Chemicals and Petrochemicals, Ministry of Chemicals and Fertilizers), Ms. Ajanta Dayalan (Joint Secretary of the National Authority), and Dr. Pankaj Sharma (Indian delegation in The Hague). The Indian delegation expressed its willingness to broaden the dialogue on chemical industry, and not limit discussions simply to treaty obligations. (DEL COMMENT: U.S. Del initiated these bilaterals to gain a better understanding of Indian reluctance on a number of issues and in the hope of moderating these

positions over time. END COMMENT.)

¶12. (SBU) Sampath explained that in the Indian government, the National Authority (NA) is attached to the Cabinet Office, rather than to a specific ministry. In response to a question regarding NA communication with chemical industry, he said that the NA outreach is similar to that used by the U.S., but explained that India has a number of different chemical associations for different types of chemicals, as well as at the federal and state levels. The main association, however, is the Indian Chemistry Council. Because conflicts can occur between smaller associations, the Indian NA cannot confine its outreach to one umbrella association. Outreach is also conducted through state-level workshops, which can be particularly effective in states where a greater percentage of industry is concentrated.

¶13. (SBU) Mikulak asked what industry issues were of particular importance to India. Dayalan listed the enhancement of OCPF declarations, the OPCW Central Analytical Database, and OCPF site selection as the main topics of interest, adding that principled issues related to risk assessment and the number and frequency of inspections were important as well. Mikulak noted that global chemical industry has undergone significant changes since the treaty was signed, as has the global security environment, and that the future non-proliferation role of the Organization was very important. Dayalan pointed to the continuing application of the original treaty provisions regardless of changes or completion of

chemical weapons destruction, and listed Articles X and XI as areas of the Convention that could use further development.

¶14. (SBU) Mikulak explained that an area of increasing/future importance for the U.S. is the idea of using the OPCW as a forum for discussion of issues related to chemical safety and security. He noted the importance and utility of exchanging information and benefiting from others' experience. Delrep Weekman added that these issues are important to all regional groups, and that the time seems right to expand this discussion, and to this end perhaps even to use the Open Ended Working Group on Terrorism more effectively. He outlined the U.S. redlines on the role of the OPCW in this respect, offering assurance that the U.S. does not see the OPCW Technical Secretariat taking on an increased role or responsibility in this area. Weekman also noted that there could be opportunities for work within an Article X or XI framework, and that the OPCW Office of Special Projects was also exploring this.

¶15. (SBU) Dayalan stated that this issue would require careful consideration, as safety and security is a State Party responsibility. She also cautioned that issues tend to gain their own momentum and that, while the goal was laudable, it might prove very difficult to keep the Technical Secretariat from assuming a more independent role. She suggested working bilaterally instead.

¶16. (SBU) On the subject of the inclusion of additional spectra (for analytical derivatives and degradation products of scheduled chemicals) in the OPCW Central Analytical Database (OCAD), Dayalan stated India's view that the OCAD should only contain scheduled chemicals. She noted that the OCAD currently contains only 5,000 of the estimated 100,000 possible scheduled chemicals, and that the OPCW should focus on filling this gap before attempting to add chemicals not covered in the

Convention. She also explained India's "compromise solution" to use only scheduled chemicals on Article VI inspections and develop a separate database for use on challenge inspections or investigations of alleged use that could contain other chemicals. Mikulak asked what the Secretariat's reaction to this had been; Dayalan said the TS was still considering the proposal. (DEL NOTE: Prior to EC-54, OPCW Head of Laboratory Gary Mallard shared a copy of a TS proposal based on this suggestion with the U.S. Del. Del expressed U.S. concerns, shared by the UK, at this approach and worked to ensure the TS did not circulate the document. END NOTE)

¶17. (SBU) Mikulak noted that the U.S. has concerns with TS sampling and analysis procedures, but believes it is essential for the OCAD to include analytical derivatives for scheduled chemicals. He noted that, in fact, the OCAD already contains some analytical derivatives that are not scheduled chemicals themselves. He noted the Technical Secretariat's desire to introduce additional analytical derivatives that would improve their analytical capabilities for scheduled chemicals.

¶18. (SBU) Dayalan responded that the CWC Schedules of Q18. (SBU) Dayalan responded that the CWC Schedules of Chemicals already contain precursors and "marker chemicals." She explained that, as opposed to analytical derivatives, these marker chemicals indicate the presence of specific toxic substances. Mikulak suggested that India and the U.S. exchange papers on this topic, and that it would be helpful if India was willing to identify these chemicals for the U.S. (DEL COMMENT: U.S. experts do not understand what the Indians mean by "marker chemicals" on the

schedules that are neither agents nor precursors.
END COMMENT)

¶19. (SBU) On current attempts to focus OCPF inspections on more relevant facilities, Sampath noted that one view is that OCPFs themselves are not relevant, as the focus of OCPF inspections is the facility as opposed to the chemical being produced. Dayalan added that the Secretariat paper on this topic was confusing and had nothing to do with the issue at hand.

¶20. (U) Javits sends.
CULBERTSON